

IT IS ORDERED

Date Entered on Docket: April 4, 2022



A handwritten signature in black ink, appearing to read "David T. Thuma".

**The Honorable David T. Thuma
United States Bankruptcy Judge**

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO**

In re:

MYRON DEAN CAYATINETO
STEPHANIE WERO CAYATINETO,

Debtors.

Case No. 19-12548-TF13

**STIPULATED ORDER MODIFYING AUTOMATIC STAY AND ABANDONMENT OF
PROPERTY OF THE ESTATE**

THIS MATTER comes before the Court upon stipulation of the parties herein as evidenced by their respective signatures below, Vanderbilt Mortgage and Finance, Inc. (“Creditor” or “Vanderbilt Mortgage and Finance, Inc.”), by and through its attorney of record, Davis Miles McGuire Gardner, PLLC (Ron Holmes), and the Chapter 13 trustee Tiffany M. Cornejo appearing *pro se*, the Debtors appearing by and through their attorney of record, Law Office of Gerald R. Velarde (Gerald R. Velarde) and the Court being otherwise sufficiently advised in the premises FINDS:

1. The Debtors Myron Dean Cayatineto and Stephanie Wero Cayatineto, (“Debtors”) filed for relief on November 4, 2019, under Chapter 13. Tiffany M. Cornejo has been appointed the Chapter 13 trustee (“Trustee”).

2. On February 7, 2022, Creditor served the Motion for Relief from Stay (Doc. #57) (“Motion”) and a Notice of the Deadline for Filing Objections to the Motion (Doc. #58) (the “Notice”) on Debtor’s attorney Gerald Velarde and Trustee by use of the Court’s case management and electronic filing system for the transmission of notice as authorized by Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, and on the Debtors Myron Dean Cayatineto and Stephanie Wero Cayatineto, by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014.

3. The Property is described as a 2017 CMH double wide (“Collateral”) with serial number BEL007030TXAB financed by the Note and subject to a valid perfected lien held by Creditor.

4. The Notice provided for an objection deadline of twenty-one (21) days plus three (3) for mailing from the date of service of the Notice.

5. The Notice was sufficient in form and content.

6. The objection deadline expired on March 3, 2022.

7. On January 31, 2022 the Debtors filed a Response to the Motion (Doc. #60). No other parties have filed a responsive pleading.

8. Commencing April 15, 2022 through November 15, 2022, Debtors shall make an additional monthly payment of \$167.17 per month, then a final payment of \$167.15 on December 15, 2022 in order for post-petition attorney’s fees and costs in the sum of \$1,504.51 to be paid. Debtors shall remain current on all future post-petition payments from this point

forward. This sum represents the post-petition arrears, as well as attorney's fees and costs associated with the filing of the Motion, as itemized below:

Arrears	\$0.00
Attorney's fees	\$1,220.40
Tax	\$96.11
Costs	<u>\$188.00</u>
Total	\$1,504.51

9. Payments shall be made directly to Creditor at:

Vanderbilt Mortgage
P.O. Box 9800
Maryville, TN 37802

with reference to the last four digits of the loan number 7640.

10. Debtors shall timely perform all of their obligations regarding the payments described herein and under Creditor's loan documents as they come due, including but not limited to the payment of real estate taxes, maintaining insurance coverage, Chapter 13 Plan payments, and any and all senior liens.

11. In the event that the Debtors fail to tender payment as due for the March, 2022 regular payment and forward or the additional payment herein, Creditor may file a Notice of Default with the Court, which will be mailed to the Debtors and sent by electronic notification to Debtors' counsel. The Debtors will have ten (10) days from the filing of a Notice of Default to cure the default. The Debtors will only receive two (2) such Notices. If the Debtors fail to cure the default within ten (10) days from the filing of a Notice of Default then, upon Creditor's filing of an Affidavit of Default, the automatic stay effectuated by Debtors' bankruptcy filing will be lifted as ordered herein, so that Creditor may avail itself of the rights and remedies afforded under its Note and Mortgage, including but not limited to the right to foreclose against the Property if available under State Law.

12. In the event that the Debtors default a third time, Creditor may immediately proceed with the filing of its Affidavit of Default, thereby terminating the automatic stay and abandoning the subject Property as ordered herein, so that Creditor may avail itself of the rights and remedies afforded under its security agreement, including but not limited to the right to foreclose against the Property if available under State Law.

13. In the event the Debtors default, upon proper notice of the default to the Trustee the Trustee shall immediately cease making payments to Creditor pursuant to the Debtors' Chapter 13 Plan, and future payments, if any, will only be made by the Trustee pursuant to an Amended Proof of Claim filed by Creditor for any unsecured deficiency balance.

14. If the Stay is terminated herein due to Debtors' default, then the Stay shall remain in force with respect to the collection of any resulting deficiency and shall be set forth in a proof of claim filed with the Court.

15. There is no just cause to delay the entry of the Order.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Automatic Stay imposed by the filing of the above-entitled and numbered cause of action, as the same pertains to the Property known as a 2017 CMH double wide manufactured home with serial number BEL007030TXAB as described above, is modified herein consistent with the terms described above.

IT IS FURTHER ORDERED that this Order shall be effective if this case is converted to any other Chapter under the Bankruptcy Code.

IT IS FURTHER ORDERED that the Chapter 13 trustee's approval to this order is a conditional abandonment of the asset from the estate under 11 U.S.C. §554.

IT IS FURTHER ORDERED that the fourteen (14) day stay requirement of F.R.B.P. 4001(a)(3) is waived as of the date of entry of this order.

IT IS SO ORDERED

END OF DOCUMENT

Submitted by:

DAVIS MILES MCGUIRE GARDNER, PLLC

s/ Ron Holmes (submitted via e-orders)

Ron Holmes
Attorney for Vanderbilt Mortgage and Finance, Inc.
320 Gold Ave., SW, Suite 1111
Albuquerque, NM 87102
Telephone: (505) 268-3999
Facsimile: (505) 243-6448

Approved by:

LAW OFFICE OF GERALD R. VELARDE

By Approved by email 3/30/2022

Gerald Velarde
Attorney for Debtors
P.O. Box 11055
Albuquerque, NM 87192
(505) 248-1828
gvelarde@velardepc.com

Approved by:

Approved by email 3/31/2022 reh

Tiffany M. Cornejo
Chapter 13 Trustee
625 Silver Ave, Suite 350
Albuquerque, NM 87102
Telephone: (505) 243-1335
Facsimile: (505) 247-2709